

ESTTA Tracking number: **ESTTA310953**

Filing date: **10/12/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Humanscale Corporation		
Entity	Corporation	Citizenship	New York
Address	11 E. 26th Street, 8th Floor New York, NY 10010 UNITED STATES		

Attorney information	Michael K. Leachman Jones, Walker, Waechter, Poitevent, Carrere & Denegre, LLP 8555 United Plaza Boulevard, 5th Floor Baton Rouge, LA 70809 UNITED STATES jwtrademarks@joneswalker.com Phone:225-248-2420
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Registration Subject to Cancellation

Registration No	1632391	Registration date	01/22/1991
Registrant	HOWE FURNITURE CORPORATION 9387 DIELMAN INDUSTRIAL DRIVE ST. LOUIS, MO 63132 UNITED STATES		

Goods/Services Subject to Cancellation

Class 020. First Use: 1989/03/18 First Use In Commerce: 1989/03/18 All goods and services in the class are cancelled, namely: furniture - namely, tables

Grounds for Cancellation

Consists of or comprises a name, portrait, or signature of a living individual without written consent, or the name, portrait, or signature of a deceased president without the written consent of the surviving spouse	Trademark Act section 2(c)
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Attachments	Petition for Cancellation.pdf (3 pages)(66442 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/michael k. leachman/
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Name	Michael K. Leachman
Date	10/12/2009

HUMANSCALE CORPORATION,)	Cancellation No.: _____
)	
Petitioner)	
vs.)	In the Matter of Trademark
)	Registration No.: 1,632,391
)	
COMMERCIAL FURNITURE GROUP,)	
INC.)	For the Mark: DIFFRIENT
)	
)	
Respondent)	Date of Registration: January 22,
)	1991

Petitioner, Humanscale Corporation, a New York corporation, located and doing business at 11 E. 26th Street, 8th Floor New York, New York 10010, hereby petitions to cancel Registration No. 1,632,391 on the following grounds:

Petitioner has applied for registration of the mark DIFFRIENT WORLD™ on an intent-to-use basis to identify its goods, which include furniture, namely seating, chairs, and stools in International Class 20. The application was filed on March 9, 2009. The mark consists of the surname of Neils Diffrient— a well-known ergonomic furniture designer. In accordance with 15 U.S.C. 1052, a written consent to register the DIFFRIENT WORLD™ mark was executed by Neils Diffrient. The written consent has been made of record.

{B0614557.2}

Petitioner's Trademark Application No. 77/686364 has been refused registration in an office action based upon Respondent's Registration No. 1,632,391. Therefore, Petitioner will be damaged by the continuance of Registration No. 1,632,391.

3.

Upon information and belief, Howe Furniture Corporation—the predecessor in title of Registration No. 1,632,391¹—contracted with Neils Diffrient in July 1986 to design a line of tables. Howe Furniture subsequently filed its application for registration of the “DIFFRIENT” mark on April 9, 1990. The mark was registered on the Principal Register on January 22, 1991 in International Class 20 for “furniture, namely tables.”

4.

Upon information and belief, Registration No. 1,632,391 was obtained without Neils Diffrient's written consent to registration as required by 15 U.S.C. 1052(c).

5.

Accordingly, Petitioner submits that Registration No. 1,632,391 is subject to cancellation pursuant to 15 USC 1064(3).

WHEREFORE, Petitioner prays that Registration No. 1,632,391 be cancelled and that this Petition for Cancellation be sustained in favor of Petitioner.

¹ According to the USPTO's records, Howe Furniture merged with Commercial Furniture Group, Inc. on December 22, 2005. Accordingly, it is believed that Commercial Furniture Group, Inc. is the current owner of the registration at issue and is therefore the proper party.

HUMANSIZE CORPORATION

Date: October 12, 2009

By: 
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